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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Simons & Youhe Gao
Serial No. : 09/276,868
Filed : March 26, 1999
For : "METHOD FOR PR-39 PEPTIDE REGULATED
STIMULATION OF ANGIOGENESIS"
Examiners : Chih-Min Kam, Christopher Low & Karen C.
Carlson
Group Art Unit : 1653
Attorney's Docket No. : BIS-043

AMENDMENT AND RESPONSE SUBMITTED PURSUANT
TO 37 C.F.R.1.114 IN SUPPORT OF THE
REQUEST FOR CONTINUING EXAMINATION

Commissioner for Patents
P.O. Box 1450
Mail Stop: RCE
Alexandria, Virginia 22313-1450

Sir:

As part of the documents supporting the instant Request For Continuing Examination filed herewith in the U.S. Patent Office, applicants respectfully present their substantive Response in full to the most recently received (final) Official Action mailed July 21st, 2003, as extended through January 21st, 2004, for the above-identified application.

As a matter of substantive right, therefore, applicants hereby amend independent claims 11 and 15 respectively; and retain previously pending dependent claims 12-14 respectively.

In addition, in view of the explicit holdings rendered by the U.S. Supreme Court in the *Festo* case recently decided on May 28, 2002 [*Festo Corp. v. Shoketsu Kinzoku Kabushiki Co. Ltd. et al.*, 62 U.S.P.Q.2d 1705 (2002)] concerning the applicability of the legal doctrine of equivalents to amended claim language, applicants now present a formal attestation and affirmation of their legal position and substantive rights: Applicants do not now surrender for any reason, nor have previously surrendered at any time or for any reason during the prosecution of the instant application, any inventive subject matter which is or could be expected to be a particular equivalent of the invention defined by the language of the amended claims then pending by a person ordinarily skilled in this art; and that no presumption of estoppel, either in law or equity, exists or pertains now or at any time previously as a potential bar to the application of the doctrine of equivalence for any and all possible embodiments which may be found to be encompassed now or in the future by the language of the amended claims proffered now or at any time previously for examination to the U.S. Patent Office. Accordingly, applicants affirmatively rebut and explicitly dispute any presumption that the doctrine of equivalence for the language of the amended claims has been surrendered or is not in full force for any reason and at any time during the prosecution for any and all amended claims prosecuted for the instant application.

Also, in accordance with the revised amendment practice (which became compulsory on July 30th, 2003), applicants now present a listing of all the claims in ascending numerical order which were ever submitted for review; and include an identification of those cancelled or withdrawn claims which were previously submitted as well as the full text of the claims currently pending in the instant application. The listing of all claims and the full text of the presently pending claims begins on the immediately following page.